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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,819	01/13/2006	Peter Kacev	58157-014500	8584

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GREENBERG TRAURIG LLP (LA)
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INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

EXAMINER

TRIEU, THAI BA

ART UNIT	PAPER NUMBER
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3748

MAIL DATE	DELIVERY MODE
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12/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,819

Applicant(s)

KACEV ET AL.

Examiner

Thai-Ba Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/05/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to the Election filed on October 23, 2007.

Applicant's election of Group I, claims 1-5 in the reply filed on October 23, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 6-12 have been withdrawn from consideration.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Oath/Declaration

Applicants are required to submit a substitute Oath with the CORRECT STATEMENT set forth below:

"I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Osako et al. (Pub. Number JP 11-022474 A).

Regarding claims 1-2, Osako discloses a component for a turbocharger, the component including:

a housing (15) defining a chamber for a predetermined part of the turbocharger;
and

a jacket (16) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path about the outer surface of the housing, the fluid path having a fluid inlet (Not Numbered) and a fluid outlet (Not Numbered);

in which the fluid path (19) has the fluid outlet situated at a furthestmost position on the housing from the fluid inlet (Not Numbered) (See Figures 1-2, Abstract, and paragraphs [0010]-[0017] of an attached copy of the machine translation).

Regarding claim 5, Osako discloses a turbocharger including a component comprising:

a housing (15) defining a chamber for a predetermined part of the turbocharger;
and

a jacket (16) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path (19) about the outer surface of the housing, the component having a fluid inlet and a fluid outlet (See Figures 1-2, Abstract and paragraphs [0010]-[0017] of an attached copy of the machine translation).

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Herenius (Patent Number 4,187,678).

Regarding claims 1-2, Herenius discloses a component (52) for a turbocharger, the component including:

a housing (Not numbered) defining a chamber for a predetermined part of the turbocharger; and

a jacket (Not Numbered) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path about the outer surface of the housing, the fluid path having a fluid inlet (from 27 to 52) and a fluid outlet (from 52 to 53);

in which the fluid path (from 27 to 52, and then to 53) has the fluid outlet situated at a furthestmost position on the housing from the fluid inlet (Not Numbered) (See Figure 6)

Regarding claim 5, Herenius discloses a turbocharger including a component comprising:

a housing (Not Numbered) defining a chamber for a predetermined part of the turbocharger; and

a jacket (Not Numbered) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path (from 27 to 52, and then to 53) about the outer surface of the housing, the component having a fluid inlet and a fluid outlet (See Figure 6).

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by either Land (Patent number 2,866,617), or Meiners (Patent Number 4,068, 612).

Regarding claims 1-2, Land/Meiners discloses a component for a turbocharger, the component including:

a housing (Not Numbered -- turbine housing -- of Land, 41 of Meiners) defining a chamber for a predetermined part of the turbocharger; and

a jacket (14 of Land, 50 of Meiners) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path about the outer surface of the housing, the fluid path having a fluid inlet (26 of Land, 60 of Meiners) and a fluid outlet (27 of Land, 62 of Meiners);

in which the fluid path (→ of Land, 50 of Meiners) has the fluid outlet situated at a furthestmost position on the housing from the fluid inlet (26 of Land, 60 of Meiners) (See

Figures 1-5, and Column 2, lines 25-35 and 53-72, and Column 3, lines 1-8 of Land, Figures 4-5, Column 3, lines 45-68, and Column 4, lines 1-28 of Meiners).

Regarding claim 5, Land/Meiners discloses a turbocharger including a component comprising:

a housing (Not Numbered -- turbine housing -- of Land, 41 of Meiners) defining a chamber for a predetermined part of the turbocharger; and

a jacket (14 of Land, 50 of Meiners) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path (→ of Land, 50 of Meiners) about the outer surface of the housing, the component having a fluid inlet (26 of Land, 60 of Meiners) and a fluid outlet (27 of Land, 62 of Meiners) (See Figures 1-5, and Column 2, lines 25-35 and 53-72, and Column 3, lines 1-8 of Land, Figures 4-5, Column 3, lines 45-68, and Column 4, lines 1-28 of Meiners).

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by either Dufour (Pub. Number BR 8700406), or Glagolev (Pub. Number WO 95/33918 A1).

Regarding claims 1-2, Dufour/Glagolev discloses a component for a turbocharger, the component including:

Art Unit: 3748

a housing (2 of Dufour, Not Numbered of Glagolev) defining a chamber for a predetermined part of the turbocharger; and

a jacket (1 of Dufour, Not shown within 2 of Glagolev) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path about the outer surface of the housing, the fluid path having a fluid inlet (3 of Dufour, Not Numbered of Glagolev) and a fluid outlet (4 of Dufour, Not Numbered of Glagolev);

in which the fluid path (within 1 of Dufour, Not shown of Glagolev) has the fluid outlet situated at a furthestmost position on the housing from the fluid inlet (3 of Dufour, Not Numbered of Glagolev) (See Figures 3-5 and 7-8 Dufour, Figures 2 and 4 and Abstract of Glagolev).

Regarding claim 5, Dufour/Glagolev discloses a turbocharger including a component comprising:

a housing (2 of Dufour, Not Numbered of Glagolev) defining a chamber for a predetermined part of the turbocharger; and

a jacket (1 of Dufour, Not Numbered of Glagolev) surrounding the housing, the jacket being arranged in a spaced relationship relative to an outer surface of the housing to define a fluid path (within 1 of Dufour, Not Numbered of Glagolev) about the outer surface of the housing, the component having a fluid inlet (3 of Dufour, Not Numbered of Glagolev) and a fluid outlet (4 of Dufour, Not Numbered of Glagolev)(See Figures 3-5 and 7-8 Dufour, Figures 2 and 4 and Abstract of Glagolev).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meiners (Patent number 4,068,612), in view of Henning et al. (Patent Number 5,303,253).

Meiners discloses the invention as recited above, and further discloses a compressor housing (28) of the turbocharger and has an air inlet (32) for receiving uncompressed air and an air outlet (16, 18) for discharging compressed air to an engine.

However, Meiners fails to disclose the compressor housing having a jacket.

Henning teaches that it is conventional in the compact flow gas laser art, to utilize the compressor housing having a jacket (32) (See Figure 3).

It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized the compressor housing having a jacket, as taught by Henning, to improve the efficiency of the Meiners device, since the use thereof would have cooled down the compressor housing and air flow before being delivered into the engine.

Art Unit: 3748

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meiners (Patent number 4,068,612), in view of Johnston et al. (Patent Number 5,857,332).

Meiners discloses the invention as recited above; however, Meiners fails to disclose the jacket being of aluminium and attached to the housing by welding.

Johnston teaches that it is conventional in the supercharged internal combustion engine art, to utilize the jacket being of aluminium and attached to the housing. (See Column 3, lines 45-50).

It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized the jacket being of aluminium and attached to the housing, as taught by Johnston, to provide the light weight for Meiners device.

Note that the claimed phrases "the jacket being attached to the housing by welding" are being treated as product by process limitation; that is, the jacket is formed to the housing by manufacturing, forming, casting, molding, shaping, punching and rolling. As set forth in MPEP 2113, product by process claims are NOT limited to manipulations of the recited steps, only to the structure implied by the steps. Once a product appearing to be substantially the same or similar is found, a 35 USC 102/103 rejection may be made and the burden is shifted to applicant to show an obvious difference. See MPEP 2113.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Gokan et al. (Pub. Number US 2003/0017765 A1) disclose a personal watercraft having an engine with a supercharger.

- Bilek et al. (US Patent Number 7,077,113 B2) disclose a combined intercooler and flame arrester.

- Gokan et al. (US Patent Number 6,942,017 B2) disclose an intercooler having an arrester (51).

- Maxson et al. (US Patent Number 5,375,565) disclose a flame arrestor and method of manufacture.

- Takashi et al. (US Patent Number 5,261,356) disclose a supercharged outboard motor including a water jacket encircling the supercharger.

- Spurr et al. (US Patent Number 4,788,824) disclose an electric power plant having a compressor (10), flame arresters (42, 50), and a heat exchanger evaporator.

- Wolf (US Patent Number 4,080,149) discloses a pulse combustor control system.

- Bentele (US Patent Number 2,865,611) discloses a rotary regenerative heat exchanger.

- Hrynyszak (US Patent number 2,795,109) discloses a combination chamber, heat exchanger and flame trap for combustion turbine plants.

- Fookien et al. (Pub. Number DE 10344868 A1) disclose an exhaust powered turbocharger for marine engine having a water jacket cooled lightweight housing with corrosion inhibiting coating of the inner surface.
- Tsukamoto (Pub. Number JP 2003-035153 A) discloses a compressor housing structure for a turbocharger having a water jacket on side-wall of the compressor housing.
- Isogai (Patent Number JP 55-142932 A) discloses a supercharged internal combustion engine having a flame arrester (43) positioned after an evaporator (41).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (571) 272-4867. The examiner can normally be reached on Monday - Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 3748

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TTB
December 10, 2007



Thai-Ba Trieu
Primary Examiner
Art Unit 3748